

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ROBERT J. HIMEBAUGH,

Plaintiff,

Case No. 05-73667

v.

District Judge Arthur J. Tarnow

COMMISSIONER OF SOCIAL
SECURITY,

Magistrate Judge Wallace Capel, Jr.

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT &
RECOMMENDATION [DE 18], DENYING PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT [DE 9], AND GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT [DE 15]**

Before the Court is Plaintiff's Motion for Summary Judgment [DE 9] and Defendant's Motion for Summary Judgment [DE 15]. On August 16, 2006, Magistrate Judge Capel issued a Report and Recommendation [DE 18] recommending that the Plaintiff's motion be denied, Defendant's motion be granted, and that judgement be entered for the Defendant.

Having reviewed the file, the respective Motions for Summary Judgment, and the Report and Recommendation, the Court hereby ADOPTS the Report and Recommendation [DE 18] as the findings and conclusions of the Court. Therefore,

IT IS ORDERED that Plaintiff's Motion for Summary Judgment [DE 9] is DENIED.

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment [DE 15] is GRANTED.

SO ORDERED.

s/Arthur J. Tarnow
Arthur J. Tarnow
United States District Judge

Dated: February 28, 2007

I hereby certify that a copy of the foregoing document was served upon counsel of record on February 28, 2007, by electronic and/or ordinary mail.

s/Theresa E. Taylor
Case Manager